

**CITY OF ROCKVILLE PLANNING DIVISION  
STAFF REPORT**

July 17, 2003

**SUBJECT:** Use Permit Application  
USE2002-00647

**Applicant:** The Magruder Companies

**Owner:** Jefferson-WHM Limited

**Date Filed:** July 11, 2002

**Location:** 22 West Jefferson Street



**REQUEST:**

- The applicant requests approval to construct additions to an existing office building, with a total floor area of 51,042 square feet.

**PREVIOUS RELATED ACTIONS:**

M-10-57: Property rezoned from R-90 to O-1; approved January 21, 1958.

Building permit records do not extend back this far; it is assumed that the current office building was built shortly after the rezoning was approved.

**RELEVANT ISSUES**

In reviewing the application, the following issues emerged and have been addressed:

- The applicant proposes to add approximately 28,000 square feet of office space to the existing 23,000 square foot building, for an increase of about 121 percent, in a location adjacent to one-family residential development.
- Setbacks from the adjoining residential zone must comply with the new requirements of the zoning code.
- The relationship to the residences and other adjoining uses around the site must be evaluated.
- Access, on-site circulation and parking and loading needs to be addressed.

**ANALYSIS**

**Background**

The subject property was placed in the O-1 Zone by local map amendment in 1958. It has been developed with a 23,000 square foot office building for approximately 40 years. The surface parking lot in the rear is accessed from West Jefferson Street via a driveway on the west edge of

the site. To the east of the site along South Washington Street are several one-family homes that have been converted to office use in the O-1 Zone. The Christ Episcopal Church owns a house used as a rectory in the O-1 Zone, and the church building itself just south of the converted offices, in the R-90 Zone. An undedicated right-of-way, once known as Church Street, borders the site on the south. Beyond that is City-owned property that serves as a stormwater detention facility for portions of the Town Center. On the west are a number of one-family detached houses in the R-90 Zone that front on South Adams Street. Opposite the site on West Jefferson Street are various commercial office uses in the TCO-1 Zone.

### **Property Description and Proposal**

The entire property consists of 1.2045 acres, with frontage on West Jefferson Street. The site is in the shape of an inverted "L" with approximately 212 feet of frontage on West Jefferson Street. The site is about 323 feet deep. An office building with 23,000 square feet of floor area occupies the front of the site. There is a substantial slope from the street to the rear of the building, giving in effect an extra story at the rear. The area behind the building is an asphalt paved surface parking lot with about 90 spaces available. The paving extends across the east property line to the paved parking and driveway area of the adjoining church. There is substantial vegetation and mature trees along the west property line adjacent to the one-family houses along South Adams Street.

The Use Permit application was originally filed in July, 2002. At that time, the applicant proposed an expansion of approximately 49,000 square feet, for a total of 72,000 square feet of office space. This initial proposal would have added a third floor to the existing building, along with a new 3-story wing on the east end. Extending to the rear, a 5-story addition was proposed, along with a 2-level parking structure. The resulting 72,000 square foot building would have had an FAR of 1.37, compared to FAR of 3 allowed in the O-1 Zone.



Existing Office Building

On September 23, 2002, the Mayor and Council approved a six-month moratorium on the acceptance, processing, and approval of applications for use permits for development on non-residentially zoned properties adjacent to residentially zoned properties. On March 10, 2003 the six-month moratorium was extended from March 23, 2003 to April 28, 2003. As a consequence of the moratorium, staff suspended processing the subject use permit application pending the outcome of the legislation being prepared in response to the moratorium.

Following the end of the moratorium on April 28, 2003, the applicant filed amendments to the pending application that reduced the total gross floor area from a total of 72,000 square feet to 51,042 square feet. The reduction results from not adding a third story to the existing building, with the east addition limited to 2 stories also. The rear addition is reduced by about 1½ stories. In addition, all of the parking for the building is now proposed to be below grade.

### **Zoning Issues**

Zoning text amendment TXT2003-00196 was approved by the Mayor and Council on April 28, 2003. This text amendment established a new set of compatibility standards for commercial development adjoining residential development. It also amended the development standards in the O-2 Zone and created a new C-T, Commercial Transition Zone.

The provisions from the text amendment that apply to the subject application are as follows:

1. For new development or redevelopment, building height cannot exceed a line formed by an angle of 30 degrees measured from a point beginning at the relevant side or rear property line of the adjoining residential property.
2. A building façade of 100 feet or more must have façade offsets of at least 2 feet for every 50 feet of façade length.
3. Structured parking above grade is prohibited adjacent to residentially zoned property which permits residential development up to a building height of 45 feet.
4. For additions to existing development, the Planning Commission may adjust any of the requirements by up to 20 percent where it is demonstrated that strict application of these provisions for unique site characteristics such as, but not limited to existing building locations, topography, shape of property or site access, but excluding economic hardship, would result in an undue hardship to the property, so long as the intent of this provision is met.
5. For development in commercial and office zones abutting residential development, all driveways and all parking and maneuvering areas must be set back a distance equivalent to the respective setback of the lot in the adjoining residential zone, but not less than 12 feet. Such screening area must be improved with a double row of trees or other landscaping. Walls or fencing of 100 percent opacity up to a height of 5 feet may be considered as an alternative. The screening area may be interrupted by entry driveways and access walks to the front entrance.

Staff notes that a comprehensive map amendment has been filed that affects this property. The comprehensive zoning proposes to rezone this site from the O-1 to the O-2 Zone. This rezoning is scheduled to be acted on by the Mayor and Council on August 4, 2003. The staff will address the potential impact of the rezoning later in this report.

Under the O-1 Zone standards, an FAR of 3.0 and building height up to 75 feet is permitted. The side yard setback adjoining residential is a minimum of 25 feet, or the height of the building, whichever is greater. For a side yard adjoining a non-residential zone, the setback is 15 feet, unless there are no windows, in which case no setback is required. The same setbacks hold true for the rear yard. These setback requirements are supplemented by the additional standards set forth above.

### Building Height & Setback Requirements

Building height is normally measured from the front street grade to the mid-point of a gable roof. In this case, where the proposed redevelopment is adjacent to residential uses, the building height must conform to the 30 degree slope line, which is measured from the common lot line. In this case, the existing office building is set back from the side property line 41 feet. The building height is 32 feet, so the existing building exceeds the minimum existing O-1 Zone requirements for the side yard setback vs. height. The proposed new addition on the east end of the existing building adjoins development in the O-1 Zone, so there are no additional height restrictions on that side. There are no setback requirements from the street in the O-1 Zone.

The proposed rear addition is 3½ stories high, measured from the existing ground level in the rear yard. The wall facing the adjoining residential lots is set back 66 feet from the property line. Staff measured the height based on an elevation of 435 feet at the rear of the lot at 108 South Adams Street. Staff has determined that the 30 degree slope line intersects the roof of the addition at the mid-point of its gable roof, therefore complying with the Code's new setback requirements. The rear building addition is set back 19 feet from the east property line, meeting the 15 foot minimum for walls with windows. It is set back 108 feet from the rear property line.

### Lot Coverage

The O-1 Zone has no lot coverage limit. Staff notes that parking at or below grade does not count towards building coverage. Staff calculates that the building coverage proposed by the revised plan is 29 percent.

### Building Façade

The Code now requires a building façade of 100 feet or more adjoining residential development to be articulated with 2-foot minimum off-sets. The proposed rear addition is 104 feet long. The proposed plan does indicate wall articulation to comply with this requirement.



Existing Zoning Pattern

### Parking and Maneuvering Areas

The recently-approved text amendment establishes a minimum setback area for all driveways, parking and maneuvering areas next to residential development. The minimum setback is 12

feet, which is sufficient to plant a double row of trees. The Code has the following standards for entrance and exit driveways:

**Sec. 25-413. Entrance and exit driveways.**

- (a) Driveways for one (1) or two (2) family dwellings shall have a width of not less than ten (10) feet.
- (b) For all other uses, there shall be at least two (2) one (1) direction driveways fifteen (15) feet in width or one (1) two (2) directions driveway twenty-five (25) feet in width, except that two directions driveways on four (4) land or wider highways or within the central business district shall be either twenty-five (25) or thirty-five (35) feet in width. The number, type, and width of such driveways shall be as reasonably determined by the Planning Commission.

The applicant submitted a revised plan for the proposed development on July 2, 2003. These comments are based on that revised plan. The revised plan indicates the single entry drive, which is the location of the current entry drive from West Jefferson Street, to be 25 feet wide at the entry point. Once past the driveway apron, the driveway narrows to two lanes, or 20.2 feet wide. This allows for a setback from the adjoining residential property line of 9.6 feet. As noted above, the Planning Commission may allow up to 20 percent adjustment in any of the compatibility setback requirements. A 20 percent reduction from the normal 12 foot setback is 9.6 feet. Given the constraints of the existing building, and the fact that the existing driveway is in the same location, staff recommends approval of the 20 percent waiver of the setback for the driveway. The driveway apron must comply with State Highway Administration specifications.

The 9.6 foot driveway setback is maintained at the entry circle, which is also the entry way to the parking garage. The applicant will need to demonstrate to the Department of Public Works how the trash will be stored and handled within the garage prior to issuance of building permits.

Although the underground parking structure is not subject to the normal setback standards, the plans indicate that the structure will be 25 feet back from the property line. This results, in part, due to the storm drain and other underground utilities that run along the property line.

**Former Street Right-of-Way**

The south end of the subject site is bordered by an area that has been identified in the past as "Church Street". This area was dedicated to the City in the 1920's, subject to the City accepting the dedication within 15 months. However, the City never accepted or took title to this right-of-way. Christ Episcopal Church uses the east end of "Church Street" as a driveway to access the rear of their site. As such, it also currently provides an alternate, though not legally binding access for the existing parking lots on the subject site and Christ Episcopal Church. The applicant has prepared an Agreement of Confirmation and Release which purports to confirm that the dedication of "Church Street" was never accepted by the City, and that therefore the property operates for the benefit of the owners of the lands bounding on "Church Street". The agreement allocates the portions of "Church Street" attributable to each of the abutting and adjoining property owners, including the City. The document would confirm the following interests in Church Street: the City tract - 2,199 square feet; the Simpson tract - 2,239 square

feet; the Jefferson tract - 2,185 square feet; the Smith tract - 2,322 square feet; Christ Episcopal Church - 3,040 square feet adjacent to tract #1 and 3,025 square feet adjacent to tract #2. The other property owners have signed the document; it has not been signed by the City. For the subject site, this would have the effect of enlarging the site by 2,185 square feet. The subject site has been designed to comply with the development standards whether or not "Church Street" is made part of the subject property.



### **Traffic and Transportation**

At the meeting on July 9, the Planning Commission requested the applicant to provide additional data on the queuing and turning movements from West Jefferson Street into the site. The applicant submitted the additional information. The attached memo from the Traffic and Transportation Division provides an analysis of the traffic study. The staff finds that traffic movements and queuing are within acceptable limits, and recommends approval with conditions.

### **Historic Preservation**

The east portion of the site along West Jefferson Street is within the South Washington Street Historic District. The balance of the site is adjacent to this historic district. As such, the proposed new wing on the east end of the existing building must be approved by the Historic District Commission (HDC). The HDC also provides a courtesy review to all proposed development that is adjacent to an historic district. The HDC reviewed this application at its meeting on June 19, 2003 and provided the following comments:

There was concern over the continuous roofline and the placement of the pilasters, windows and dormers. They felt some of the wall breaks were arbitrary, and preferred a more cohesive design. The windows and dormers should line up. The overall design should reflect the Georgian Revival style of the existing building. The HDC wanted to

see a sample of the synthetic slate roofing material proposed for the building. The draft minutes of the meeting are attached to this report.

Staff recommends as a condition of approval of the Use Permit that the HDC review and approve the proposed addition to the building that is within the historic district prior to issuance of building permits.

### **Pending Rezoning**

On May 9, 2003 the City filed Comprehensive Map Amendment, MAP2003-00087. This action was based on the actions taken by the Mayor and Council with respect to zoning text amendment TXT2003-00196 and the Town Center Master Plan. The text amendment modified the development standards of the O-2 Zone, and also created a new C-T, Commercial Transition Zone. The C-T Zone replaces the former option in the O-2 Zone regarding the conversion of one-family houses to office uses.

The Comprehensive Map Amendment proposes to rezone the subject property from the O-1 Zone to the O-2 Zone. The public hearing was held on June 16, 2003. The record on the hearing for that portion of the amendment that includes the subject property closed on July 14, 2003. The Mayor and Council are expected to take final action on the Comprehensive Zoning on August 4, 2003.

The text amendment modified the development standards of the O-2 Zone. The two changes that affect the development on the subject site involve the maximum lot coverage and building height. Previously, the O-2 Zone standards were tied to the "...most proximate residential zone". In the subject case, the proximate residential zone is the R-90 Zone. The new standards for the O-2 Zone require a maximum building height of 35 feet, and a maximum lot coverage of 25 percent. These happen to be the same as the adjoining R-90 Zone.

As noted earlier, building height is measured from the street grade (unless the building is more than 35 feet from the street line). Since the proposed rear addition is being attached to the existing building, the height is still measured from the street. The roofline of the proposed addition is slightly higher than the existing building, but the overall height still meets the 35 foot maximum. The 30 degree slope measurement from the adjoining residential property also applies in the O-2 Zone. As noted earlier, the proposed addition meets that height vs. setback requirement.

The staff calculates the building coverage of the proposed development at 29 percent. If the site is rezoned to the O-2 Zone, the project would not comply with the 25 percent lot coverage requirement of the O-2 Zone. If the Agreement of Confirmation and Release for "Church Street" is approved, the net lot coverage would be reduced to 27.8 percent.

Since the Code does not have any provision for deferring actions due to the pendency of a zoning action, this application must be reviewed based on the existing zoning. Staff and the Planning Commission cannot pre-suppose what the final zoning action might be. However, the applicant must be put on notice that approval of this use permit application based on the O-1 Zone does not vest any right to achieve this development. If the property is rezoned prior to the installation of

foundation footers, then any development must comply with the standards of the new zone and an amendment or new Use Permit must be approved.

**STAFF RECOMMENDATION**

Approval is recommended, subject to the following conditions:

1. Submission, for approval by the Chief of Planning, of eleven (11) copies of the site plan, revised according to Planning Commission Exhibit "A".
2. The applicant is bound by all statements submitted on the site plan and use permit application.
3. Install the driveway apron in accordance with State Highway Administration specifications.
4. Maintain 25 feet for a two lane driveway at the access point into the site. There will be full access into the site and right turns only out of the site. It will be allowed to be within 9.6 feet of the west property line.
5. All new maneuvering areas must be a minimum of 9.6 feet from the west property line.
6. The trash and recycling container location must be shown on the garage plan.
7. Truck access shall be prohibited during the morning peak period of 6 a.m. to 9 a.m.
8. The applicant must revise the site plan to provide adequate truck and vehicle circulation throughout the site as approved by DPW.
9. The applicant must perform an engineering analysis of the existing storm drain pipe along the west side of the site to determine the pipe's condition. If the analysis and/or the Department of Public Works find the pipe to be in poor condition, the applicant must repair the pipe. Repair may include either replacement or relining, depending on the pipe's condition.
10. Realignment/replacement of the sewer line serving 101 and 105 South Washington Street must be completed prior to construction-related Public Works permits for this property are released.
11. The proposed bioretention area in the northeast corner of the site must have an under-drain; it cannot drain to the lot at 105 South Washington Street.
12. Minimize excavation along the west property line to limit potential damage to existing mature trees off-site.
13. The Mayor and Council must amend the existing 15-foot sewer easement prior to approval of the grading plan.



14. Obtain permits from State Highway Administration for proposed modifications to storm drain inlet structure next to entry drive on West Jefferson Street.
15. Install the driveway apron in accordance with State Highway Administration specifications.
16. Obtain permission from adjoining property owners for any construction work or grading that requires work on the adjoining property. Any easements required for permanent structures will need to be recorded prior to issuance of building permits.
17. Provide easements for any City utilities in the area known as "Church Street" if the Confirmation and Release is authorized.
18. Applicant to perform soil borings to determine if rock is likely to be encountered. If the soil borings indicate rock is present, the developer shall notify the surrounding community within a 500 foot radius of the site that blasting may occur during a specific time frame. The notice must include a contact name and number from the applicant/contractor and City DPW inspector. The applicant shall send the notification by registered mail and provide a mailing list to DPW.
19. Provide streetscaping along W. Jefferson Street as directed by DPW to include street lighting, and a 4-foot tree lawn and 6-foot sidewalk along W. Jefferson Street. This requirement may be modified slightly by DPW to retain the existing magnolia trees in front of the building.
20. Applicant shall contribute, prior to issuance of building permits, a monetary contribution of \$6,500.00 for the implementation of a bus shelter to be located adjacent to the subject site at 22 W. Jefferson Street. This contribution will be incorporated into the Bus Stop Beautification CIP.
21. Five percent of office parking spaces associated with the new building shall be reserved for car pools at a safe and convenient location approved by the Department of Public Works ( $171 \text{ spaces required} \times 5\% = 9 \text{ spaces}$ ) and show location of the carpool spaces on site plan.
22. Applicant shall provide bicycle lockers at a location approved by the Department of Public Works. Lockers shall be provided at 1 locker for each 50 parking spaces associated with the new building ( $171/50 = 4$ ).
23. The sidewalk connection from W. Jefferson Street to the rear building entrance must be a minimum of four feet for the entire length of the sidewalk.
24. A sidewalk connection must be provided from the ingress/egress of the parking garage to acceptable pedestrian walkway as approved by DPW.

25. Obtain final approval of the design of the new east wing from the Historic District Commission prior to issuance of building permits.
26. The applicant shall execute a Transportation Demand Management (TDM) agreement with the City of Rockville before the issuance of building permits. This agreement will require the applicant to make a contribution of ten cents a square foot of gross floor area of the proposed new building per year for a period of ten years ( $28,000 \times \$0.10 = \$2,800/\text{yr.}$ ). These funds will be used for various programs designed to reduce the number and impact of vehicle trips within the City of Rockville. The TDM agreement will specify the timing and other requirements of future payments of the TDM fee. This sum will be incorporated into the TDM capital improvement program funds of the City.
27. All the internal and external traffic control devices (i.e., signs, signals, markings, and devices placed on, over or adjacent to a roadway or pathway to regulate, warn, or guide pedestrians and/or vehicular traffic) must comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD); which is currently the Millennium Edition. A signing and pavement-marking plan must be submitted to the Department of Public Works and approved by the Chief of Traffic and Transportation before the issuance of a Public Works Permit.
28. All construction must meet the requirements of all applicable City construction codes, including but not limited to the fire, building, plumbing, mechanical and electrical codes, and the Maryland Building Code for the Handicapped

DEM/

Attachments:

- A. Site Plan
- B. Building Elevations
- C. Aerial Photo
- D. Memorandum from Traffic and Transportation Division – July 16, 2003
- E. Use Permit Application
- F. Applicant's statement re: Public Art
- G. Site Photos
- H. Applicant's Letter of April 29, 2003 submitting modification
- I. Historic District Commission Draft Minutes – June 19, 2003
- J. July 9, 2003 letter from Frank Anastasi